

## REMARKS

Claims 1 to 14 are in the case.

With this amendment, Claim 11 has been amended in a manner which is believed to clearly overcome the Examiner's objection thereto. Thus, while it is believed that the claim was sufficiently clear, it has now been revised to recite that it is the combination of a gutter and a gutter shield device.

In Claim 11, Applicant has also defined in greater detail the means for securing the mounting member to the gutter retaining member.

Initially, Applicant notes that the Office Action appears to be taken verbatim from the previous Office Actions of the parent application, without regard to the changes made to the claims in the present CIP.

Reconsideration of the Examiner's rejection of the Claims under 35 USC 102 is respectfully requested in view of the following discussion.

As stated above, the Examiner has merely copied verbatim the rejection in the parent application. However, Claim 1 now includes the limitation of the mounting member and means for securing the mounting member to the gutter which comprises a securing member having a pair of legs extending downwardly and being designed to be attached to a gutter retaining member extending between the rear sidewall and front wall. This arrangement is clearly not present in the reference of Pepper.

Based on the above, it is believed that Claim 1 clearly and patentably defines over the art of record.

Claim 11 has been amended in a manner similar to the amendment of Claim 1 and is likewise believed to be allowable.

S.N. 10/780,198  
Art Unit 3635

7.

Claim 14 recites the limitation of the guard member having a channel extending therealong and a flexible sealing portion which extends outwardly in a direction away from the first side of the guard member for sealing engagement with an adjacent structure, the sealing member being retained within the channel. This claimed structure is believed to clearly differentiate over the art of record.

It is now believed this application is in order for allowance, and such action is respectfully solicited.

Respectfully,



Eric Fincham  
Reg. 28,201

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the Patents and Trademarks Office Fax No. (703) 872-9306 date set forth below.

  
Eric Fincham, Reg. 28,201

Oct 5, 2004  
Date